

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Attorney Docket No.: 14285US02

PATENT

In the Application of: )  
Jeyhan Karaoguz, et al. ) **Electronically Filed On August 10, 2009**  
Serial No.: 10/675,057 )  
Filed: September 30, 2003 )  
For: METHOD AND SYSTEM FOR )  
MIXING BROADCAST AND STORED )  
MEDIA IN A MEDIA EXCHANGE )  
NETWORK )  
Examiner: Ryan, Patrick A. )  
Group Art Unit: 2427 )  
Confirmation No.: 5837 )

**REPLY BRIEF**

Mail Stop Appeal Brief – Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This Paper responds to the Examiner's Answer mailed June 8, 2009. This Paper is timely filed on Monday, August 10, 2009 (as August 8, 2009 was a Saturday). The Applicants respectfully request that the Board of Patent Appeals and Interferences reverse the final rejection of claims 1-40 of the present application for at least the reasons set forth in the Appeal Brief and this Reply Brief.

## **REMARKS**

As an initial matter, the arguments set forth in the Examiner's Answer are essentially identical to those set forth in the Final Office Action. *Compare* Examiner's Answer at pages 3-11 with June 11, 2008 Final Office Action at pages 2-10. As such, the Appeal Brief addresses these arguments. *See* Revised Appeal Brief at pages 8-13.

### **I. Claims 34, 37 And 40 Fully Comply With The Written Description Requirement**

The Applicants respectfully maintain that there is sufficient written description support for claims 34, 37 and 40 for at least the reasons discussed in the Appeal Brief. *See* Revised Appeal Brief at page 8. For example, the specification notes that "PC's may be used but are not required to interface to the media exchange network for the purpose of exchanging digital media, data and services. Instead, set-top-boxes or integrated MPS's (media processing systems) may be used with the media exchange network to perform all of the previously described media exchange functions using a remote control with a television screen." *See* present application at page 18, lines 21-25.

### **II. The Proposed Combination Of Wood And Novak Does Not Render Claims 1-33, 35, 36, 38 And 39 Unpatentable**

#### **A. The Proposed Combination Does Not Render Claims 1, 11 And 21 Unpatentable**

Claim 1 recites, in part, the following:

creating a **channel guide for a new channel** that supports communication of media, said new channel comprising a media channel;

populating, at a first location, said channel guide for said new media channel with information identifying mixed media content, wherein said populated channel guide may be pushed to a second location; and

one or both of:

displaying said information identifying said mixed media content within said channel guide; and/or

communicating said mixed media content via said new media channel

Thus, the claim is clear that the channel guide is for a (meaning one, not multiple) new channel. Independent claims 11 and 21 recite similar limitations. The channel guide for **the** new channel (not multiple channels) is populated with **mixed media content**.

**However**, the Examiner's Answer (and the Final Office Action) misapprehend this point by simply focusing on a "channel guide" in isolation, as opposed to a **channel guide for a [that is, one] new channel**. *See* Examiner's Answer at page 16 ("It is the Examiner's position that the Claim 1 step of 'populating' is referencing the claimed 'channel guide'"). The Examiner's arguments seem to be based on this fundamental misunderstanding of the claims. Again, the claims are clear that the channel guide is for a [that is, single] new channel.

The Applicants respectfully submit that the proposed combination of Wood and Novak does not describe, teach or suggest "populating, at a first location, said channel guide for **said new media channel** [not multiple channels] with information identifying **mixed media content**, wherein said populated channel guide may be pushed to a second location," as recited in claim 1, for at least the reasons set forth in the Appeal Brief. *See* Revised Appeal Brief at pages 9-12. Note, the Examiner's Answer even acknowledges that "there is no single channel [in the cited references] that contains both personal and broadcast media displayed in the channel guide of Figure 1B." *See* Examiner's Answer at page 16 (emphasis in original). Consequently, the Examiner's Answer also must be acknowledging that there is no channel guide for such a channel. That is, if there is no such channel, there clearly would not be a guide for such a channel.

The Applicants reiterate that neither Wood nor Novak describes, teaches or suggests a single channel (or channel guide for such a channel) that includes mixed programming, such as **both** broadcast **and** personal media. *See* Revised Appeal Brief at pages 9-11. Neither the Final Office Action nor the Examiner's Answer has been able to point to any reference that describes, teaches or suggests such a channel or a channel guide for such a channel. At best, the proposed combination discloses a channel guide that includes a synthetic channel having only personal media programs **and** separate and distinct broadcast media channels. *See id.* Because **neither** reference describes, teaches or suggests "populating, at a first location, said channel guide for said new media channel with information identifying mixed media content, wherein said populated channel guide may be pushed to a second location," as recited in claim 1, for example, the combination of the references, by definition, also cannot describe, teach or suggest this limitation. *See id.*

To reiterate, "[t]o establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)." *See* MPEP at 2143.03 (emphasis added). The Final Office Action and the Examiner's Answer have not cited any reference or references that describes, teaches or suggest the limitation noted above. Consequently, the Final Office Action and the Examiner's Answer fail to establish a *prima facie* case of unpatentability with respect to any of the claims. Thus, for at least these reasons and those set forth in the Revised Appeal Brief, the Applicants respectfully submit that the proposed combination does not render claims 1-33, 35, 36, 38 and 39 unpatentable.

**B. The Proposed Combination Does Not Render Claims 2, 12 And 22 Unpatentable**

Claim 2, for example, recites “wherein said mixed media content comprises at least one personal media content and at least one broadcast media content.” Neither Wood, nor Novak, alone or in combination with one another, describes, teaches or suggests a channel guide for a channel that includes **both** broadcast **and** personal media content. Further, neither the Final Office Action nor the Examiner’s Answer has pointed to anything that discloses such a limitation. Thus, for at least this additional reason, the proposed combination does not render claims 2, 12 or 22 unpatentable. *See* Revised Appeal Brief at page 12.

**III. The Proposed Combination Of Wood, Novak And Ellis Does Not Render Claims 34, 37 And 40 Unpatentable**

The Applicants respectfully submit that the proposed combination of Wood, Novak and Ellis does not describe, teach or suggest “pushing at least a portion of said populated channel to said second location in exchange for at least a portion of a second populated channel associated with a second media channel created at said second location,” as recited, for example, in claim 34. *See* Revised Appeal Brief at ages 12-13. The Examiner’s Answer has not pointed to any reference that describes, teaches or suggests pushing a portion of a channel to a second location in exchange for a portion of another channel guide created at the second location. Thus, for at least these additional reasons, the proposed combination does not render claims 34, 37 and 40 unpatentable.

**IV. Conclusion**

For at least the reasons discussed in the Revised Appeal Brief and this Reply Brief, the Applicants respectfully submit that the pending claims are in condition for allowance. Therefore, the Board is respectfully requested to reverse the rejections of pending claims 1-40.

**PAYMENT OF FEES**

While no fee is believed due with respect to this Reply Brief, the Commissioner is nevertheless authorized to charge any necessary fees, or credit overpayment to Deposit Account 13-0017.

Dated: August 10, 2009

Respectfully submitted,  
/Joseph M. Butscher/  
Joseph M. Butscher  
Registration No. 48,326  
McANDREWS, HELD & MALLOY, LTD.  
500 West Madison Street, 34th Floor  
Chicago, Illinois 60661  
(312) 775-8000